

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

FUTURE FIBRE TECHNOLOGIES	:	
PTY LTD.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 09-346-RGA
	:	
OPTELLIOS INC,	:	
	:	
Defendant.	:	

**MEMORANDUM**

The Court has before it the “Renewed Joint Motion to Correct Inventorship.” (D.I. 284). U.S. Patent no. 7,142,736 has three listed inventors. Two other people, Brian Bourke and Lee McIntosh, have submitted affidavits complying with 35 U.S.C. § 256, asserting that they should be added as inventors on this patent. The background as to why this is so has been explained to the Court, and the Court is satisfied that Mr. Bourke and Mr. McIntosh should be added as inventors, and that their omission from the patent is through no fault of their own.

The instant motion was served on the two named inventors (Drs. Zhang and Patel) who had not agreed with adding Mr. Bourke and Mr. McIntosh as inventors. Subsequently, the Court scheduled a hearing on the Motion, and entered an order giving the two named inventors the opportunity to submit something in writing or to appear at the hearing. Plaintiff’s counsel served the order on the two named inventors by certified mail and by email. The certified mail return receipt was returned for Dr. Zhang, but was “unclaimed” by Dr. Patel. Thus, Dr. Zhang had notice of the hearing, but he did not submit anything or appear. The parties have submitted an affidavit showing that Dr. Patel was served with the order by email to his business email.

Thus, Dr. Patel had notice of the hearing, but he did not submit anything or appear either.

The Court held the scheduled hearing on March 16, 2012. There was no live testimony (the Court did speak with Mr. Bourke and Mr. McIntosh, but they were not under oath at the time), the affidavits previously submitted being sufficient to meet the statute's requirements.

The Court will **GRANT** the Motion to Correct Inventorship, and enter a separate order to that effect.

4-4-12  
Date

Richard G. Andrews  
United States District Judge